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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,499	10/02/2006	Simon Peter Knightley	127954	1722

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P.O. BOX 320850
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EXAMINER

CHOI, PETER Y

ART UNIT	PAPER NUMBER
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1786

NOTIFICATION DATE	DELIVERY MODE
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10/14/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/578,499	Applicant(s) KNIGHTLEY ET AL.	
	Examiner PETER Y. CHOI	Art Unit 1786	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 13 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) 18 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 13, 16, 17 and 20-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 20-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 20-23, claim 20 recites that the mat has a size of at least 49 square meters. Applicants' specification, as originally filed, does not teach the claimed size.

Regarding claim 23, the claim recites that the mats comprise at least 9 of the mats. Applicants' specification, as originally filed, does not teach the claimed amount of mats.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 11, 13, 16, 17, and 20-23 are rejected under 35 U.S.C. 103(a) as obvious over WO 02/39857 to Reynolds in view of USPN 5,870,785 to Hoorens, USPN 2,774,127 to Secrist and USPN 5,472,458 to Ogawa.

Regarding claims 11 and 20, Reynolds teaches a mat for reducing the disturbance of particulate matter by wind, the mat including a first wind permeable layer of mesh material and a second wind permeable layer of mesh material, wherein the first layer is held in a substantially fixed position on top of the second layer without an intervening layer between the first and second layers, and the first layer is attached to the second layer in a peripheral region (Reynolds, pages 1-6).

Regarding claim 11, Reynolds is silent as to the type of material comprising the mesh material, the spacing between the layers, the stitch length, and the porosity. However, since the material is a mesh material, the mesh material necessarily comprises a type of mesh material. Similarly, the layers necessarily comprise a separation distance and a porosity, and, based on the type of mesh material, a stitch length. Therefore, it would have been necessary and therefore obvious to look the prior art for conventional characteristics of mesh material.

Hoorens teaches a substantially similar mat suitable for use on a ground comprising multiple layers of plastic mesh material wherein the layers are separated by a distance of between 0.1 and 1 cm, and wherein the mesh material is a knitted mesh material (Hoorens, column 1 line 4 to column 4 line 16, claims 1-20). Hoorens teaches that the mesh may have a cross-section of 0.5 mm to 10 mm, to at least allow for the flow of air. It should be noted that it naturally flows from the teachings of Hoorens that the knitted mesh material necessarily comprises an average stitch length. Additionally, it is reasonable for one of ordinary skill in the

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art to associate a mesh size with a pore size, and it is reasonable for one of ordinary skill in the art to expect that optimizing the stitch length further influences the mesh size or pore size in the final product, which Reynolds teaches is necessarily porous.

As additional evidence, Secrist teaches a similar open-mesh knitted textile material comprising plastic fibers, wherein the material has 8 courses per inch, which is known in the art to be substantially similar and/or identical to stitch length in knitted materials (Secrist, column 1 line 15 to column 2 line 71, column 3 lines 1-31, column 5 lines 14-49, Examples 1-10). Secrist teaches that a material having such specifications is flexible with a relatively high initial resistance to deformation, and has strength, elastic conformability, and capacity for stress distribution suitable for use in plastic laminates. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the mat of Reynolds, wherein the mesh layers comprise the knitted mesh layers having the stitch lengths as taught by Hoorens and Secrist, motivated by the desire of forming a conventional multilayered plastic mesh mat with a mesh type and a corresponding stitch length known in the art to be predictably suitable for use in multilayered plastic meshes, such that the resulting mat is flexible with a relatively high initial resistance to deformation, and has strength, elastic conformability, and capacity for stress distribution suitable for use in multilayered plastic meshes.

Reynolds teaches that the particulate matter is retained between the first and second layer. Therefore, it is reasonable for one of ordinary skill in the art to expect that the distance between the first and second layer may be optimized based on the size of the particulate matter desired to be allowed to pass through one layer but retained between the layers, and the desired flow of air.

USPN 5,472,458 to Ogawa is cited to show that sand particles are known in the art as

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having a particle size of 2 mm or less (*see for example* Ogawa, column 2 line 28 to column 4 line 25, claim 1). Therefore, it naturally flows from the teachings of Reynolds that if the particulate matter is retained between the first and the second layer, and the particulate matter is known in the art as having a particle size of 2 mm or less, then the mat of Reynolds inherently has a distance between the layers of at least about 2 mm. Alternatively, it would have been obvious to one of ordinary skill in the multilayer mat art at the time the invention was made to form the multilayered mat of Reynolds, wherein the separation of the layers are adjusted such as at a distance of at least about 2 mm or between 0.1 and 1 cm, as Reynolds suggests that particulates such as sand comprise a size of 2 mm or less and that a separation distance between 0.1 and 1 cm allows the desired flow of air, and motivated by the desire of forming a conventional multilayered mat having a desired distance between the layers based on the size of the particulate matter desired to be allowed to pass through one layer but retained between the layers, and the desired flow of air.

Regarding claim 11, the prior art combination does not appear to specifically teach that each layer of mesh material has the claimed porosity, the porosity being the proportion of surface area of the mesh material which consists of holes rather than fibers. However, the prior art combination teaches that each layer of mesh material necessarily comprises pores, and that it was known to form mesh having a cross-section of 0.5 mm to 10 mm. Therefore, it would have been obvious to one of ordinary skill in the knitted mat art at the time the invention was made to form the knitted mat of the prior art combination, wherein the porosity of the mesh material is optimized to between 10% and 50%, as the mat necessarily comprises a variable mesh cross-

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section and porosity, and motivated by the desire of forming a conventional mat with a porosity suitable for the desired mesh cross-section and for the intended application.

Regarding claim 11, the prior art combination does not appear to specifically teach that each layer of the mesh material has a wind attenuation factor of between 40% and 80% for wind directed at right angles onto the mesh material at 50 km/h, based on the average stitch length, the average separation, and the porosity of the first and second mesh layers. However, it should be noted that Applicants do not define wind attenuation factor. Additionally, Applicants' specification discloses that the wind attenuation factor of the *mat* will depend on a number of factors, including the smoothness of the fibers, the size of individual holes, and the porosity (emphasis added). Applicants' specification does not appear to teach what factors are determinative as to the wind attenuation factor of *each layer*. It should be noted that Applicants' specification does not appear to teach that the type of construction (i.e. mesh vs. woven) nor that the distance between the layers necessarily affects the wind attenuation factor of each layer. Reynolds teaches that each layer of material comprises first and second plastic mesh layers of varying size and shape, allowing sand to pass through. Additionally, it is reasonable for one of ordinary skill in the art to associate a mesh size with a pore size, since Reynolds teaches that the material is necessarily porous as evident in the ability of the material to allow sand to pass through. Therefore, although the prior art combination does not appear to specifically teach the claimed wind attenuation factor, it is reasonable for one of ordinary skill in the art to expect that the claimed property is inherent to and naturally flows from the teachings of the prior art combination, as the prior art combination teaches a substantially similar structure and

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composition as the claimed invention. Products of identical structure can not have mutually exclusive properties. The burden is on Applicants to prove otherwise.

Alternatively, it would have been obvious to one of ordinary skill in the mat art at the time the invention was made to form the mat of the prior art combination, wherein the wind attenuation factor of each layer is adjusted as claimed, as each layer necessarily comprises a variable mesh cross-section and porosity, and motivated by the desire of forming a conventional mat with a porosity suitable for the desired mesh cross-section and for the intended application.

Additionally, the recitation that the mat reduces the disturbance of particulate matter by wind created during the landing of a helicopter on the mat when the mat is placed on the particulate matter, is recited in the preamble of the claim. A preamble is generally not accorded any patentable weight where it merely recites the purpose or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the structural limitations are able to stand alone. Since the prior art combination teaches a substantially similar structure and composition as the claimed invention, the prior art combination appears to render obvious the claimed invention.

Regarding claim 13, the prior art combination teaches that the mesh material is formed from plastics fibers (Reynolds, pages 1-6; Hoorens, column 3 lines 37-64).

Regarding claims 16 and 17, Reynolds teaches a mat including one or more mats (pages 1-6). Although the prior art combination does not specifically teach that the peripheral region has a greater mass per unit area than the combined mass per unit area of each layer of the mesh material, it is reasonable for one of ordinary skill in the art to expect that such a characteristic is inherent to the prior art since the prior art teaches that the perimeter comprises an additional

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material to secure the layers at the perimeter, and since the prior art teaches a substantially similar structure and composition as the claimed invention. Alternatively, it would have been obvious for one of ordinary skill in the art to form the mat of the prior art combination, wherein the peripheral region has a greater mass per unit area than the combined mass per unit area of each layer of the mesh material, as it naturally flows from the prior art combination that the mat is suitable to be used on various surfaces such as the ground and as a ground cover for a camper, and that it is a desired characteristic of the mat for the peripheral region to have a greater mass per unit area than the mesh material such that the mat is anchored to the ground and has less tendency to be affected by various environmental factors, when used in the desired application.

Regarding claims 16, 17 and 20, the prior art combination does not appear to specifically teach that the mat is a helicopter landing mat and that the mat has a length and a width which exceed the rotor span of a helicopter. However, Applicants are not literally claiming a helicopter in conjunction with the claimed mat and the prior art mat necessarily has a length and a width. Therefore, a reference to the mat as a helicopter landing mat and a reference to a length and width which exceed the rotor span of a helicopter appear to be a recitation of the intended use of the mat. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Since the prior art combination teaches a substantially similar structure and composition as the claimed invention, the prior art combination appears to be capable of performing the intended use. Alternatively, Reynolds teaches that the mat may be of any convenient size and shape, and can be extended (Reynolds, page 5). It would have been

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obvious to one of ordinary skill in the mesh mat art at the time the invention was made to form the mesh mat of the prior art combination, wherein the size of the mat is adjusted for various applications, as taught by Reynolds, motivated by the desire of forming a conventional mesh mat having a desired size predictably suitable for various applications.

Regarding claim 20, the prior art combination does not appear to teach that the mat has a size of at least 49 square meters. However, the size of the claimed invention does not appear to distinguish the claimed invention from the invention of the prior art combination, as the claimed dimensions of the claimed invention would not perform differently than the invention of the prior art combination. Reynolds teaches that the mat may be of any convenient size and shape, and can be extended (Reynolds, page 5), such that larger sizes could function as a ground cover for campers. It would have been obvious to one of ordinary skill in the mat art at the time the invention was made to form the mat of the prior art combination, wherein the size of the mat is adjusted such as to a size of at least 49 square meters, as suggested by Reynolds, motivated by the desire of forming a conventional mat having a desired size predictably suitable for various applications, as it is within the level of ordinary skill to increase the size to accommodate a utility requiring a larger size, which would predictably behave in a substantially similar manner as a smaller mat.

Regarding claims 21 and 22, Reynolds teaches that the mat is comprised of a single mat or a plurality of mats (Reynolds, page 5).

Regarding claim 23, the prior art combination does not appear to specifically teach that the plurality of mats comprises at least 9 of the mats. However, Reynolds teaches that the mat may be of any convenient size and shape, and can be extended to accommodate two or more

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mats (Reynolds, page 5), such that larger sizes could function as a ground cover for campers. It would have been obvious to one of ordinary skill in the mat art at the time the invention was made to form the mat of the prior art combination, wherein the size of the mat is adjusted by accommodating a plurality of mats such as at least 9 mats, as suggested by Reynolds, motivated by the desire of forming a conventional mat having a desired size predictably suitable for various applications, as it is within the level of ordinary skill to increase the size to accommodate a utility requiring a larger size, which would predictably behave in a substantially similar manner as a smaller mat.

Response to Arguments

5. Applicants' arguments filed July 30, 2010, have been fully considered but they are not persuasive. Applicants argue that the Declaration of July 30, 2010, shows that the combination of recited stitch length, average separation range and porosity yields unexpected results, that the combination of recited features create a tumbling effect, and that the recited mat is lighter than previously-used mats.

Regarding Applicants' arguments, Examiner respectfully disagrees. Regarding Applicants' Declaration, Declarant is describing a two-layer mat within the scope of the claimed invention at paragraph 16. However, Declarant's statements do not further distinguish the claimed invention from the prior art combination, as Declarant's statements merely recite aspects of the claimed invention, but do not show how the invention of the prior art combination necessarily does not comprise the claimed properties.

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Additionally, Applicants' specification at page 7 teaches that the overall wind attenuation factor of the mat will depend on a number of factors, including the smoothness of the fibres used, the size of individual holes (which is related to the stitch length in knitted materials), and the porosity of each layer of the mesh material. Declarant does not show how or if the invention set forth in paragraph 16 of the Declaration comprises the claimed wind attenuation factor, and how or if the invention of the prior art combination necessarily does not comprise the claimed property.

Additionally, a tumbling effect and a weight is not claimed. Therefore, Declarant's statements regarding those characteristics are not within the scope of the claimed invention, and fail to distinguish the claimed invention from the invention of the prior art.

Applicants argue that the Office Action fails to establish that the three claimed variables were known to provide any particular result, and especially a result relating to the problems associated with a helicopter landing mat. Examiner respectfully disagrees. First, regarding the recitation of a helicopter landing mat, the recitation of a helicopter landing mat for reducing the disturbance of particulate matter by wind created during the landing of a helicopter on the mat when the mat is placed on the particulate matter, is recited in the preamble of the claim. A preamble is generally not accorded any patentable weight where it merely recites the purpose or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the structural limitations are able to stand alone. Therefore, the recitation in the preamble of a helicopter landing mat does not further distinguish the claimed invention from the invention of the prior art combination, as the prior art combination sets forth a substantially similar structure and composition as the claimed invention. For example, Reynolds

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teaches a mat including a first wind permeable layer of mesh material and a second wind permeable layer of mesh material, wherein the first layer is held in a substantially fixed position on top of the second layer, and the first layer is attached to the second layer in a peripheral region.

Reynolds is silent as to the type of material comprising the mesh material, the spacing between the layers, the stitch length, and the porosity. However, since the material is a mesh material, the mesh material necessarily comprises a type of mesh material. Similarly, the layers necessarily comprise a separation distance and a porosity, and, based on the type of mesh material, a stitch length. Therefore, it would have been necessary and therefore obvious to look the prior art for conventional characteristics of mesh material.

Hoorens teaches a substantially similar mat suitable for use on a ground comprising multiple layers of plastic mesh material wherein the layers are separated by a distance of between 0.1 and 1 cm, and wherein the mesh material is a knitted mesh material. Hoorens teaches that the mesh may have a cross-section of 0.5 mm to 10 mm, to at least allow for the flow of air. It should be noted that it naturally flows from the teachings of Hoorens that the knitted mesh material necessarily comprises an average stitch length. Additionally, it is reasonable for one of ordinary skill in the art to associate a mesh size with a pore size, and it is reasonable for one of ordinary skill in the art to expect that optimizing the stitch length further influences the mesh size or pore size in the final product, which the prior art teaches is necessarily porous.

As additional evidence, Secrist teaches a similar open-mesh knitted textile material comprising plastic fibers, wherein the material has 8 courses per inch, which is known in the art

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to be substantially similar and/or identical to stitch length in knitted materials. Secrist teaches that a material having such specifications is flexible with a relatively high initial resistance to deformation, and has strength, elastic conformability, and capacity for stress distribution suitable for use in plastic laminates. It would have been obvious to one of ordinary skill in the mat art at the time the invention was made to form the mat of Reynolds, wherein the mesh layers comprise the knitted mesh layers having the stitch lengths as taught by Hoorens and Secrist, motivated by the desire of forming a conventional multilayered plastic mesh mat with a mesh type and a corresponding stitch length known in the art to be predictably suitable for use in multilayered plastic meshes, such that the resulting mat is flexible with a relatively high initial resistance to deformation, and has strength, elastic conformability, and capacity for stress distribution suitable for use in multilayered plastic meshes.

Reynolds teaches that the particulate matter is retained between the first and second layer. Therefore, it is reasonable for one of ordinary skill in the art to expect that the distance between the first and second layer may be optimized based on the size of the particulate matter desired to be allowed to pass through one layer but retained between the layers, and the desired flow of air.

USPN 5,472,458 to Ogawa is cited to show that sand particles are known in the art as having a particle size of 2 mm or less. Therefore, it naturally flows from the teachings of Reynolds that if the particulate matter is retained between the first and the second layer, and the particulate matter is known in the art as having a particle size of 2 mm or less, then the mat of Reynolds inherently has a distance between the layers of at least about 2 mm. Alternatively, it would have been obvious to one of ordinary skill in the multilayer mat art at the time the invention was made to form the multilayered mat of Reynolds, wherein the separation of the

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layers are adjusted such as at a distance of at least about 2 mm or between 0.1 and 1 cm, as Reynolds suggests that particulates such as sand comprise a size of 2 mm or less and that a separation distance between 0.1 and 1 cm allows the desired flow of air, and motivated by the desire of forming a conventional multilayered mat having a desired distance between the layers based on the size of the particulate matter desired to be allowed to pass through one layer but retained between the layers, and the desired flow of air.

The prior art combination does not appear to specifically teach that each layer of mesh material has the claimed porosity, the porosity being the proportion of surface area of the mesh material which consists of holes rather than fibers. However, the prior art combination teaches that each layer of mesh material necessarily comprises pores, and that it was known to form mesh having a cross-section of 0.5 mm to 10 mm. Therefore, it would have been obvious to one of ordinary skill in the knitted mat art at the time the invention was made to form the knitted mat of the prior art combination, wherein the porosity of the mesh material is optimized to between 10% and 50%, as the mat necessarily comprises a variable mesh cross-section and porosity, and motivated by the desire of forming a conventional mat with a porosity suitable for the desired mesh cross-section and for the intended application.

The prior art combination does not appear to specifically teach that each layer of the mesh material has a wind attenuation factor of between 40% and 80% for wind directed at right angles onto the mesh material at 50 km/h, based on the average stitch length, the average separation, and the porosity of the first and second mesh layers. However, it should be noted that Applicants do not define wind attenuation factor and wind attenuation factor does not appear to be a property known and/or established in the art. Additionally, Applicants' specification

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discloses that the wind attenuation factor of the *mat* will depend on a number of factors, including the smoothness of the fibers, the size of individual holes, and the porosity (emphasis added). Applicants' specification does not appear to teach what factors are determinative as to the wind attenuation factor of *each layer*. It should be noted that Applicants' specification does not appear to teach that the type of construction (i.e. mesh vs. woven) nor that the distance between the layers necessarily affects the wind attenuation factor of each layer. Reynolds teaches that each layer of material comprises first and second plastic mesh layers of varying size and shape, allowing sand to pass through. Additionally, it is reasonable for one of ordinary skill in the art to associate a mesh size with a pore size, since Reynolds teaches that the material is necessarily porous as evident in the ability of the material to allow sand to pass through. Therefore, although the prior art combination does not appear to specifically teach the claimed wind attenuation factor, it is reasonable for one of ordinary skill in the art to expect that the claimed property is inherent to and naturally flows from the teachings of the prior art combination, as the prior art combination teaches a substantially similar structure and composition as the claimed invention. Products of identical structure can not have mutually exclusive properties. The burden is on Applicants to prove otherwise.

Alternatively, it would have been obvious to one of ordinary skill in the mat art at the time the invention was made to form the mat of the prior art combination, wherein the wind attenuation factor of each layer is adjusted as claimed, as each layer necessarily comprises a variable mesh cross-section and porosity, and motivated by the desire of forming a conventional mat with a porosity suitable for the desired mesh cross-section and for the intended application.

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Applicants argue that the Office Action uses impermissible hindsight to select features from the references in entirely different fields in an attempt to match the features recited in the claims. Examiner respectfully disagrees. In response to Applicants' argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). As set forth above, the prior art combination renders obvious the claimed invention, as the prior art combination discloses a substantially similar structure and composition as the claimed invention.

Conclusion

6. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER Y. CHOI whose telephone number is (571)272-6730.

The examiner can normally be reached on Monday - Friday, 08:00 - 15:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Peter Y Choi /PYC/
Examiner, Art Unit 1786

/D. Lawrence Tarazano/
Supervisory Patent Examiner, Art Unit
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